

26340. Adulteration of olives. U. S. v. 2 Barrels of Ripe Olives. Default decree of condemnation and destruction. (F. & D. no. 37772. Sample no. 59226-B.)

This case involved olives that contained an excessive quantity of arsenic.

On June 6, 1936, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 2 barrels of ripe olives at Omaha, Nebr., alleging that the article had been shipped on or about November 20, 1934, by the Lindsay Ripe Olive Co., of Lindsay, Calif., from Oakland, Calif., and charging adulteration in violation of the Food and Drugs Act. The barrels containing the article were stenciled in part: "Lindsay Brand Sicilian Style California Olives * * * Packed by Lindsay Ripe Olive Company, Lindsay, California."

The article was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, arsenic, which might have rendered it injurious to health.

On July 16, 1936, no answer having been filed, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

26341. Adulteration and misbranding of olive oil. U. S. v. 22 Half-Gallon Cans of Olive Oil. Default decree of destruction. (F. & D. no. 37773. Sample no. 68282-B.)

This case involved olive oil that was adulterated with tea-seed oil and that was short in volume.

On or about June 16, 1936, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 22 half-gallon cans of alleged olive oil at Columbus, Ohio, alleging that the article had been shipped in interstate commerce on or about May 5, 1936, by Moscahlades Bros., Inc., from New York, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Half Gallon Elephant Brand."

The article was alleged to be adulterated in that tea-seed oil had been mixed and packed therewith so as to reduce or lower its quality or strength, and had been substituted in whole or in part for olive oil, which the article purported to be.

The article was alleged to be misbranded in that the following statements and designs appearing upon the label were false and misleading and tended to mislead and deceive the purchaser when applied to a product containing tea-seed oil: (Design of olive branch and olives) "Imported Virgin Olive Oil * * * Pure Olio d'Oliva Vergine * * * The olive oil contained in this can is pressed from fresh picked selected olives. It is guaranteed to be absolutely pure under chemical analysis and is highly recommended for table use and medicinal purposes. * * * L'Olio di oliva che questa latta contiene, e prodotto da olive accuratamente scelte e garantito di essere assolutamente puro sotto qualunque analisi chimica. Esso e altamente raccomandato tanto per uso da tavola come per uso medicinale"; in that the statement on the label, "Half Gallon", was false and misleading and tended to mislead and deceive the purchaser when applied to an article in cans containing less than one-half gallon; in that it was offered for sale under the distinctive name of another article, namely, olive oil; and in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package since the statement made was incorrect.

On August 13, 1936, no claimant appearing, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

26342. Adulteration and misbranding of Oertels 12-2 Ale. U. S. v. 9 Cases of Oertels 12-2 Ale. Default decree of condemnation and destruction. (F. & D. no. 37801. Sample no. 68541-B.)

This case involved ale containing less alcohol than indicated by the labeling.

On April 9, 1936, the United States attorney for the Middle District of Tennessee, acting upon a report by an official of the State of Tennessee, filed in the district court a libel praying seizure and condemnation of nine cases of ale at Nashville, Tenn., alleging that the article had been shipped in interstate commerce on or about March 4, 1936, by the Oertel Co., from Louisville, Ky., and

charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Oertels 12-2 Ale Sparkling."

The article was alleged to be adulterated because a beverage containing less than 12½ percent of alcohol had been substituted for the article described on the label.

The article was alleged to be misbranded in that it was labeled "Oertels 12-2 Ale Sparkling" so as to deceive and mislead the purchaser, since analysis showed that it contained less than 5 percent of alcohol by weight.

On July 22, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

26343. Adulteration and misbranding of butter. U. S. v. 5 Cases of Butter. Default decree of condemnation and destruction. (F. & D. no. 37805. Sample no. 45547-B.)

This case involved butter that was deficient in milk fat and short in weight.

On March 21, 1936, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of five cases of butter at Butte, Mont., alleging that the article had been transported in interstate commerce on or about February 18, 1936, by Newell J. Olsen, trucker, of Butte, Mont., from Rexburg, Idaho, and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Wrapper) "Banquet Better Butter * * * Guaranteed by Nelson-Ricks Creamery Co. General Offices Salt Lake City, Utah One Pound Net When Packed."

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as provided by the act of March 4, 1923.

The article was alleged to be misbranded in that it was labeled "Butter" which was false and misleading as it contained less than 80 percent of milk fat; in that it was labeled "One Pound Net When Packed", which was false and misleading as the package contained less than that quantity; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated on the package was not correct.

On October 22, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

26344. Adulteration and misbranding of apple cider vinegar. U. S. v. 23 Cases, et al., of Apple Cider Vinegar. Default decrees of condemnation and destruction. (F. & D. nos. 37815, 37829, 37830. Sample nos. 51547-B, 51557-B, 51558-B.)

These cases involved apple vinegar cider that was deficient in acid and contained excessive alcohol. A portion was short in volume.

On June 13 and July 2, 1936, the United States attorney for the Eastern District of Virginia, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 135 cases of apple cider vinegar at Richmond, Va., alleging that the article had been shipped in interstate commerce on or about May 5, May 11, May 13, May 21, and May 26, 1936, by Ridgeville Cider & Vinegar Co., from Baltimore, Md., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Pure Apple Cider Vinegar Log Cabin made from apples only manufactured and guaranteed by Interstate Fruit Product Co., Home Office Baltimore, Maryland." The bottles were labeled further, variously: "Contents 12 Fl. Oz. Full Strength"; "1 Pint 8 Oz. Full Strength"; "Contents 1 pint. 8 Oz. Full W'G'T * * * Reduced to 4%"; "Contents 1 Quart Full Strength."

The article was alleged to be adulterated in that a substance deficient in acid and containing excessive alcohol had been mixed and packed therewith so as to reduce or lower its quality or strength and had been substituted in whole or in part for apple cider vinegar, which the article purported to be.

The article was alleged to be misbranded in that the following statements appearing in the labeling were false and misleading and tended to deceive and mislead the purchaser: (All sizes) "Apple Cider Vinegar made from Apples Only"; (12-ounce size) "Full Strength"; (1½-pint size) "Contents 1 Pint 8